

REMARKS

The Official Action dated April 20, 2005, has been carefully considered. The changes presented herein, taken with the following remarks, the Declaration Under 37 C.F.R. 1.132, and the Statement of Common Ownership submitted herewith, are believed sufficient to place the present application in condition for allowance. Claims 21 and 27 have been amended. It is believed that these changes do not involve any introduction of new matter, and thereby entry is believed to be in order and is respectfully requested. Claims 1-27 remain in the application for consideration. Reconsideration is respectfully requested.

Initially, it is noted that the Declaration under 37 C.F.R. 1.132 is unsigned. The original Declaration is presently being executed by the inventors, and the signed version of the Declaration will be submitted shortly. Consideration of the unsigned Declaration until the executed Declaration is submitted is requested.

In the Official Action, claims 1-3, 13, 15-18, 20 and 22-26 were rejected under 35 U.S.C. § 102(e) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over any one of the Willey et al U.S. patents (U.S. Patent Nos. 6,607,579; 6,607,586, 6,656,253).

However, as will be set forth in detail below, Applicants submit that the Willey et al patents are not proper prior art with respect to the presently claimed invention. Submitted herewith is a Declaration by the present co-inventors Vladimir Gartstein and Alan David Willey under 37 C.F.R. 1.132, who are also co-inventors of the cited Willey et al patents. The Declaration states that they, individually or jointly, conceived or invented the subject matter disclosed in the Willey et al patents and claimed in the present application. Thus, this Declaration establishes that the subject matter relied on in the Willey et al patents were the invention of the present Applicants, and not "of another," and therefore overcomes any rejection based on the Willey et al patents, *In re DeBaun*, 214 U.S.P.Q. 933, 936 (CCPA 1982). In light of this Declaration, the Willey et al patents are no longer proper prior art references and the rejection under 35 U.S.C. § 102(e) has been overcome.

In addition, the rejection under § 103(a) is also improper. Because the Willey et al patents were considered prior art under § 102(e), the provisions of § 103(c) become applicable. Under 35 U.S.C. § 103(c), subject matter developed by another person, which qualifies as prior art only under 35 U.S.C. § 102(e), (f) or (g) shall not preclude patentability

**Serial No. 10/697,229
Amendment dated October 20, 2005
Reply to Official Action of April 20, 2005**

under 35 U.S.C. § 103 where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Submitted herewith is a Statement of Common Ownership which verifies that at the time the invention set forth in the present application was made, the present invention and the invention set forth and claimed in the Willey et al patents were subject to an obligation of assignment to a common assignee, The Procter & Gamble Company. In light of this Statement, the rejection under 35 U.S.C. § 103 has been overcome.

It is therefore submitted that the rejections under 35 U.S.C. §§ 102(e) and 103(a) based on the Willey et al patents has been overcome. Reconsideration is respectfully requested.

Claims 4-12, 14, 19, 21 and 27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the prior art as applied to claims 1, 13, 20 and 23, and further in view of Kraemer et al.

As noted above, the Willey et al patents are not proper prior art references in light of the 1.132 Declaration. The Kraemer et al reference fails to teach or suggest the present invention, and, as such, the rejection of claims 4-12, 14, 19, 21 and 27 under 35 U.S.C. § 103 has been overcome. Reconsideration is respectfully requested.

It is believed that the above remarks along with the Declaration Under 37 C.F.R. 1.132 and the Statement of Common Ownership provides a complete response to the rejections under 35 U.S.C. §§ 102 and 103, and as such, place the present application having claims 1-27 in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450 on October 20, 2005.


Diana M. Celia



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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

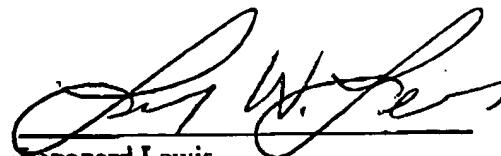
Applicant:	Vladimir Gartstein et al	:	Paper No.:
Serial No.:	10/697,229	:	Group Art Unit: 1723
Filed:	October 30, 2003	:	Examiner: Richard L. Chiesa
For:	Dynamic Electrostatic Aerosol Collection Apparatus For Collecting And Sampling Airborne Particulate Matter		

DECLARATION OF LEONARD LEWIS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In regards to the references cited by the Examiner in the above-referenced application, Willey et al U.S. Patent Nos. 6,607,579; 6,607,586; and 6,656,253, and the present application (U.S. Patent Application 10/697,229) were, at the time the invention of the present application was made, subject to an obligation of assignment to The Procter & Gamble Company.



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CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment; Commissioner for Patents; P.O. Box 1450; Alexandria, VA 22313-1450 on October 20, 2005.

David M. Chiesa

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant:	Vladimir Gartstein et al.	:	Paper No.:
Serial No.:	10/697,229	:	Group Art Unit: 1724
Filed:	October 30, 2003	:	Examiner: Richard L. Chiesa
For:	Dynamic Electrostatic Aerosol Collection Apparatus For Collecting And Sampling Airborne Particulate Matter		

DECLARATION UNDER 37 C.F.R. 1.132

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Vladimir Gartstein and Alan David Willey declare that they are the inventors of the present application, that they are co-inventors of the Willey et al U.S. Patent Nos. 6,607,579; 6,607,586; and 6,656,253, and that they, individually or jointly, conceived or invented the subject matter disclosed in the Willey et al patents and claimed in the present application.

They further declare that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the

United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Vladimir Gartstein

Alan David Willey

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